

### **REMARKS**

Applicants have carefully reviewed the Final Office Action mailed September 30, 2011, and thank Examiner Eloshway for the review of the pending claims. In response to the Office Action, Applicants have not amended any claims. Claims 23, 25-28, 33 and 38-39 were previously cancelled. Accordingly, claims 1-2, 24, 29-32, 34-37, and 40-42 remain pending in this application. At least for the reasons set forth below, Applicants respectfully traverse the foregoing rejections.

As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, assertions as to dependent claims, etc.) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such assertions/requirements in the future. Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03. Applicants respectfully request reconsideration of the present application in view of the above amendment, and the following remarks.

### **Claim Rejections – 35 U.S.C. § 103**

#### **I. The Law**

"To establish prima facie obviousness of a claimed invention, all the claim recitations must be taught or suggested by the prior art." *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). M.P.E.P. § 2143.03. Accord. M.P.E.P. § 706.02(j).

#### **II. Claims 1, 2, 24, 29, 31, 32, 34-37 and 40-42**

Claims 1, 2, 24, 29, 31, 32, 34-37 and 40-42 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Nachumi (U.S. 2006/0124573) in view of Pyum (U.S. 2004/0089626). Claim 30 was rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Nachumi (U.S. 2006/0124573, hereinafter "Nachumi") in view of Pyum (U.S. 2004/0089626, hereinafter "Pyum"), and further in view of Webb et al. (U.S. 7,204,380, hereinafter "Webb"). Applicants respectfully traverse the rejection.

Applicants respectfully traverses the rejection as Nachumi does not qualify as prior art to the present application. More specifically, the present application was filed as a national phase application on September 19, 2006, claiming priority to a PCT application filed on March 17, 2005. However, the PCT application claims priority to five provisional applications, the earliest filing date being March 19, 2004, the last filing date being October 8, 2004. Thus, the priority date for the present application is March 19, 2004. Nachumi, however, was not filed until **November 29, 2004.** Thus, Nakao does not qualify as prior art under.

As Applicants have previously demonstrated that the pending claims are patentably distinct from Pyum, all of the claims in the present application are believed to be in condition for allowance. However, Applicant reserves the right to set forth further arguments supporting the patentability of their claims, including the separate patentability of the dependent claims not explicitly addressed herein, in future papers.

### **CONCLUSION**

In view of the above remarks, the pending application is in condition for allowance. If, however, there are any outstanding issues that can be resolved by telephone conference, the Examiner is earnestly encouraged to telephone the undersigned representative.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. 66599-0012 from which the undersigned is authorized to draw. To the extent necessary, a petition for extension of time under 37 C.F.R. §1.136 is hereby made, the fee for which should also be charged to this Deposit Account.

Application No. 10/593,429  
Amendment dated November 30, 2011  
After Final Office Action of September 30, 2011

Docket No.: 66599-0012

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Respectfully submitted,

Electronic signature: /Kristin L. Murphy/  
Kristin L. Murphy  
Registration No.: 41,212  
RADER, FISHMAN & GRAUER PLLC  
Correspondence Customer Number: 10291  
Attorney for Applicant

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